IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

CRL.A.No. 30 of 2000()

ST.1813/1998 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, THRISSUR

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APPELLANT: COMPLAINANT

E.P.FRANCIS REPRESENTED BY HIS
POWER OF ATTORNEY HOLDER C.K.JOSHI
CHETHALAN HOUSE, MANNAMPETTA, VARAKKARA.

BY ADV. SRI.D.ANIL KUMAR

RESPONDENTS: ACCUSED

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1. P.K.SHANMUKHAN
   PARAMOLPADI STREET
   P.O.KONDAZHI, VADAKKANCHERI

2. STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR
   HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 25/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.30 of 2000

Dated this the 25th day of June, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent.

2. It is submitted that the lapse was on account of the wrong noting of the posting date. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 30.7.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl